IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Revision No. 528 of 2003
Date of Decision : February 25, 2010

Vijay Pal and others

....Petitioners

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE T.P.S. MANN

Present : Mr. H.S. Sangha, Advocate

Mr. P.S. Sidhu, Additional Advocate General, Punjab.

T.P.S. MANN, J. (Oral)

The petitioners were tried by Sub Divisional Judicial Magistrate, Talwandi Sabo for offences under Sections 326/325/324/ 323/34 IPC on the allegations that on 5.5.1999 they caused simple and grievous injuries to complainant Jaswant Singh. Vide judgment and order dated 29.11.2001, trial Court convicted them for offences under Sections 326/325/324/34 IPC and sentenced them to undergo rigorous imprisonment for three years and to pay a fine of Rs.500/- each under Section 326 IPC, in default of payment of fine to undergo rigorous imprisonment for nine months; rigorous imprisonment for one year and to pay a fine of Rs.200/- each under Section 325 IPC, in default of payment of fine, to undergo rigorous imprisonment for three months; and rigorous imprisonment of one year and to pay a fine of Rs.200/- each under Section 324 IPC, in default of payment of fine to undergo rigorous imprisonment for three months. All the sentences were ordered to run concurrently.

Against his conviction and sentence Vijay Pal filed an appeal whereas Makhan Singh and Vicky filed their separate appeal. Both the appeals were dismissed by learned Additional Sessions Judge, Bathinda except for modification in the conviction and sentences. Sentence of Vijay Pal under Section 326 IPC was reduced from three years to 2½ years whereas Makhan Singh and Vicky were deemed to be convicted under Section 326 read with Section 34 IPC and their sentences reduced from three years to 1½ years each. Makhan Singh was deemed to be convicted under Section 325 IPC and sentenced to imprisonment for one year whereas Vijay Pal and Vicky were deemed to be convicted under Section 325 read with Section 34 IPC and their sentences reduced to six months each. Vijay Pal and Vicky were convicted under Section 324 IPC and their sentences reduced from one year to six months each while Makhan Singh was deemed to be convicted under Section 324 read with Section 34 IPC and his sentence reduced from one year to four months. The amount of fine imposed by the trial Court was maintained. All the sentences were ordered to run concurrently.

Aggrieved of their conviction and sentences, the petitioners filed the present revision, which came up for preliminary hearing on 11.3.2003 when after hearing learned counsel for the petitioners, the Court issued notice of motion qua sentence only. In the meantime, the petitioners were ordered to be admitted to bail on furnishing adequate sureties to the satisfaction of Chief Judicial Magistrate, Bathinda.

It is clear from para 2 of the judgment of the lower appellate Court when read in conjunction with para 5 that grievous injury falling under the mischief of Section 326 IPC attributed to Vijay Pal-petitioner was on the distal end of metacarpal bone of right thumb whereas the injury falling under Section 325 IPC was attributed to Makhan Singh-petitioner and received by the complainant on his right shoulder resulting in fracture of the lateral end of clavicle. None of the

remaining injuries, including the injuries on the head and chest of the complainant were declared grievous in nature. All the remaining seven injuries were found to be simple in nature.

The petitioners have been facing the agony of criminal prosecution since May, 1999 when the present case was registered against the them. When the petitioners were examined by the trial Court under Section 235 (2) of the Code of Criminal Procedure they had stated that they were sole bread winners of their respective families.

Taking into consideration the totality of the circumstances, this Court is of the view that the sentences awarded to the petitioners under Sections 326 and 326/34 IPC are on the excessive side. Ends of justice would be amply met if the sentence of Vijay Pal under Section 326 IPC is reduced form 2½ years to 1½ years, whereas in the case of Makhan Singh and Vicky their sentences under Section 326/34 IPC are reduced from 1½ years to 9 months months each and of Makhan Singh under Section 325 IPC reduced from one year to nine months.

Resultantly, the sentence of imprisonment of Vijay Pal under Section 326 IPC is reduced from 2½ years to 1½ years whereas in the case of Makhan Singh and Vicky, their sentence of imprisonment under Section 326 read with Section 34 IPC is reduced from 1½ years to 9 months each. The sentence of Makhan Singh under Section 325 IPC is reduced from one year to nine months. The remaining sentences of imprisonment imposed upon the petitioners on other counts are maintained. The sentence of fine imposed by the trial Court alongwith its default clause is also maintained. All the substantive sentences of imprisonment shall run concurrently.

The revision is disposed of in the terms, as indicated above.

(T.P.S.MANN)
JUDGE

February 25, 2010
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